

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 28**

**BAY STATE MILLING COMPANY**

**Employer**

**and**

**Case 28-RC-073872**

**BAKERY, CONFECTIONARY, TOBACCO  
WORKERS AND GRAIN MILLERS  
INTERNATIONAL UNION, LOCAL 232, AFL-CIO, CLC**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Bakery, Confectionary, Tobacco Workers and Grain Millers International Union, Local 232, AFL-CIO (the Petitioner), seeks to represent a unit consisting of all full-time and regular part-time millers and assistant millers employed by Bay State Milling Company (the Employer) at its facility in Tolleson, Arizona, excluding all other employees, office clerical employees, professional employees, and supervisors as defined in the Act.<sup>1</sup> The Employer takes the position that millers, also called shift millers, are statutory supervisors within the meaning of Section 2(11) of the Act and should be excluded from any unit found appropriate.<sup>2</sup> The Employer also contends that it would be inappropriate to establish a distinct bargaining unit comprised of assistant shift millers. Instead the Employer asserts that the assistant millers should be allowed to vote to be included in the existing unit already represented by the Union in a self-determination, or *Armour-Globe*, election.<sup>3</sup> The Union currently represents the Employer's production and warehouse employees, including the blenders, loaders/checkers, packers/forklift operators, elevator operations, sanitation employees, and temporary workers. Conversely, if the shift millers are not found to be statutory supervisors, the Employer argues that both the shift millers and assistant millers should vote in an *Armour-Globe* election to be included in the existing bargaining unit. There are approximately six shift millers and two assistant millers. Based on the record as a whole and for the reasons more fully described below, I find that the petitioned-for unit is an appropriate unit for the purposes of collective-bargaining and that the shift millers are not supervisors within the

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<sup>1</sup> The names of the Petitioner and Respondent appear as corrected at the hearing.

<sup>2</sup> The record shows that the classification of "millers" is sometimes referred to as "shift millers." These terms will be used interchangeably in this Decision. In addition, the parties agreed on the record to amend the petition to remove the classification of "wheat runners" from the petition.

<sup>3</sup> See *Globe Machine and Stamping Co.*, 3 NLRB 294 (1937); *Armour and Company*, 40 NLRB 1333 (1942). As the First Circuit noted in *NLRB v. Raytheon Co.*, 918 F.2d 249, 250 (1<sup>st</sup> Cir. 1990), an *Armour-Globe* election is a "self-determination . . . election, in which a group of employees votes on whether to join a previously existing bargaining unit."

meaning of Section 2(11) of the Act and should be included in the unit found appropriate herein.

## DECISION

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

**1. Hearing and Procedures:** The Hearing Officer's rulings made at the hearing are free from prejudicial error and are affirmed.

**2. Jurisdiction:** The parties stipulated, and I find, that the Employer, a Minnesota corporation, is engaged in the operation of the manufacture of flour and grain-based products in Tolleson, Arizona. During the past 12 months, the Employer, in conducting its business operations, purchased and received at the Employer's facilities goods valued in excess of \$50,000 directly from points outside the State of Arizona. I find that the Employer is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and the Board's asserting jurisdiction in this matter will accomplish the purposes of the Act.

**3. Labor Organization Status:** The parties stipulated, and I find, that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act and claims to represent certain employees of the Employer.

**4. Statutory Question:** A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

**5. Unit Finding:** This case presents three issues: (1) whether the shift millers should be excluded from the unit found appropriate on the basis that they are statutory supervisors; (2) whether assistant millers, by themselves, constitute an appropriate unit; and (3) whether the shift millers and assistant millers constitute an appropriate unit separate from the existing unit.

As discussed more fully below, I conclude that the petitioned-for unit is an appropriate unit under the Act, and that shift millers are not statutory supervisors. In setting forth the reasons for my decisions, I shall discuss the Employer's operations, the job duties of the shift miller and the assistant miller, and the basis for my conclusions.<sup>4</sup>

### A. The Employer's Operations

The Employer operates a flour and grain processing mill in Tolleson, Arizona. The Employer's milling operations are conducted in a five-story facility, with three mills operating out of two buildings. The first building houses the A and B mills, and the second building

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<sup>4</sup> In making my findings, I have considered the record evidence, the arguments presented by the parties at hearing, along with the briefs filed by the Union and the Employer. Having carefully considered the matter, I deny the Union's motion to strike the Employer's post-hearing brief.

contains the C mill. Approximately 20-23 hourly employees and 20 salary employees work at the mill. The head miller, who all parties agree, and I find, based on the record, is a statutory supervisor, is responsible for overseeing the Employer's six shift millers, two assistant millers, and four sanitation employees. The head miller approves their work schedules, as well as the vacation schedules for the shift millers and assistant millers. The head miller reports to the plant superintendent.

Of the employees currently represented by the Union in the existing bargaining unit, the two elevator operators report to the elevator manager. Employees working in the packing, loading, and warehouse (PWL) department, including the three blenders, seven packers, three warehouse employees, and three loaders/forklift drivers, report to the PWL supervisor, who sets their work schedules. The maintenance manager supervises the maintenance employees during the week, and the electrician maintenance supervisor supervises the maintenance employees during the weekend. There is also a quality assurance manager who supervises two lab technicians, who are not in the bargaining unit and are not the subject of this proceeding.

In terms of pay, the shift millers and assistant millers, along with the Employer's statutory supervisors, are salaried employees. All other employees, including those in the existing unit, are paid hourly. Shift millers and assistant millers earn an annual base salary of \$40,000 and \$35,000, respectively, though they are also eligible for overtime pay. It is estimated that, on a yearly basis, existing unit employees earn the following annual wages: the sanitation workers, blenders, and forklift drivers earn approximately \$30,000; the maintenance workers and elevator operators earn about \$35,000; and the packers earn about \$25,000.

All employees wear a uniform with the Employer's logo, hard hats, ear plugs, and safety goggles. Those working in the production area also wear hairnets. The shift millers and assistant millers wear white uniforms. The packers and blenders wear white shirts and brown pants, while the elevator operators and sanitation workers wear light blue shirts and dark blue pants.

The mill operates six days a week, on a three-shift schedule, 24 hours a day. The first shift is from 7:00 a.m. to 3:00 p.m., the second shift is from 3:00 p.m. to 11:00 p.m., and the third shift is from 11:00 p.m. to 7:00 a.m. Employees record their time by punching a time-clock when they arrive and leave work, and when taking their breaks. While the shift millers and assistant millers also use a time-clock, they do not clock-out during breaks due to the fact the workload may interrupt their breaks at any time during their respective shifts.

The record shows that various employees are involved in the processing of wheat into flour. Specifically, wheat is delivered to the plant by rail or truck, is unloaded, and stored in silos by the elevator operators. Under the supervision of the head miller, the shift millers and assistant millers bring the wheat into the mill, where it is cleaned and processed through grinding and sifting machines until it is reduced to flour and bran. The product is then transported to storage bins, where the blenders further process the flour and prepare it for packing. The packers, using automated machinery, pack the flour into bags. The

loaders/forklift drivers then load the bagged flour into trucks for delivery, or take it to the warehouse to be stored.

## **B. The Shift Millers and Assistant Millers**

Both shift millers and assistant millers report to the head miller, who works only on the first shift. Because of their workload, the shift millers and assistant millers check with each other before they take their respective breaks. The record indicates that shift millers do not perform duties outside of their regular assigned duties, while the assistant millers are allowed to step in when needed and perform the duties of the shift millers.

The shift millers work on all three shifts and in each of the three mills. The shift millers are responsible for the total production in the plant, maintaining the equipment, and ensuring that the product meets quality standards. Specifically, the shift miller ensures that the correct wheat is pulled and takes measurements to verify that the flour has the correct wheat, protein, and moisture level. Unlike other classifications, shift millers are required to have either a college degree in milling technology or two years of work experience as an assistant miller. The record shows that most shift millers attended Kansas State University. Shift millers have more paid holidays and a different health insurance and benefit package than employees in the existing unit.

The record indicates that shift millers do not have the authority to hire, transfer, suspend, evaluate layoff, recall, promote, discharge, discipline, or adjust employee grievances. Shift millers do not attend supervisory meetings, unless specifically requested to do so by the head miller. While millers have asked assistant millers, blenders, maintenance workers, and sanitation workers to perform general tasks, there is no evidence that the failure to comply with such a request could result in discipline or any adverse consequences. In addition, the record indicates that the assistant millers similarly ask shift millers to perform general job tasks. There is no evidence that the shift millers are directly responsible for or held to account for the work performed by other employees.

The assistant millers, who report to the head miller, are responsible for pulling wheat into the mill and the daily manufacturing of flour according to the Employer's standards. Assistant millers only work in the A and B mills, and work on rotating shifts. They are not required to have a college degree, but receive on-the-job training. Assistant millers and shift millers all have the same health insurance, benefit package, and paid holidays. The head miller schedules the work for both the shift millers and assistant shift millers.

## **C. Legal Analysis and Determination**

### **1. Shift Millers Are Not Statutory Supervisors**

The party asserting supervisory status has the burden of proving that such status exists. *NLRB v. Kentucky River Community Care*, 532 U.S. 706, 711-712 (2001). The dividing line between true supervisors and employees for purposes of Section 2(11) is whether the alleged supervisor exercises "genuine management prerogatives" which are specifically identified in

Section 2(11) of the Act. *Oakwood Healthcare Inc.*, 348 NLRB 686, 688 (2006). “If the individual has authority to exercise (or effectively recommend the exercise of) at least one of those functions, Section 2(11) supervisory status exists, provided that the authority is held in the interest of the employer and is exercised neither routinely nor in a clerical fashion but with independent judgment.” *Id.* The “possession of any one of the authorities listed in Sec. 2(11) places the employee invested with this authority in the supervisory class.”<sup>5</sup> *Ohio Power Co. v. NLRB*, 176 F.2d 385, 387 (6th Cir. 1949), cert. denied 338 U.S. 899 (1949); *Avante at Wilson, Inc.*, 348 NLRB 1056, 1056, 1059 (2006).

The Board will confer supervisory status on individuals who possess the authority to “assign” work, which encompasses the designation of an employee to a certain place, or time, or giving significant overall duties/tasks to an employee, as long as the act of assigning is performed by the asserted supervisor using “independent judgment.” *Oakwood Healthcare*, 348 NLRB at 689, 695. For one or more of the supervisory indicia to be exercised using “independent judgment,” the authority must be “free of the control of others,” and requires the “forming an opinion or evaluation by discerning and comparing data.” The judgment must involve a “degree of discretion that rises above the routine or clerical.” *Id.* at 693 (internal quotation omitted). For example, the Board has declined to find supervisory status where the assignment of work did not rise above merely the routine or clerical; the putative supervisor did not prepare the work schedule, did not assign employees to work areas, work shifts, or overtime, but instead received specific lists of daily projects from supervision, the same work is generally done every day, and higher-level supervisors make the decision to borrow or temporarily transfer employees due to absences. *Croft Metals, Inc.*, 348 NLRB 717, 720-722 (2006).

In addition, although not dispositive, “secondary indicia” can be used as background evidence on the question of supervisory status. See *Training School of Vineland*, 332 NLRB 1412 (2000); *Chrome Deposit Corps.*, 323 NLRB 961, 963 fn. 9 (1997). As the Board has explained, secondary indicia of supervisory status may bolster evidence demonstrating that individuals otherwise exercise one of the powers listed in the statute. See *Marian Manor for the Aged & Infirm*, 333 NLRB 1084 (2001); cf. *Ken-Crest Services*, 335 NLRB 777 (2001). Secondary indicia includes higher pay, the ratio of supervisors to non-supervisor, attendance at supervisor meetings, employee perception as being a supervisor, and difference in uniforms worn. *Poly-America v. NLRB*, 260 F.3d 465, 479 (5th Cir. 2001).

The records shows that shift millers do not exhibit any of the requisite supervisory indicia or possess secondary indicia of supervisory status. Although the Employer argues that shift millers assign or responsibly direct work, the record does not support this assertion. More specifically, though the Employer asserts that shift millers assign work to assistant millers, blenders, maintenance workers, and sanitation employees, the record testimony indicates that it is the head miller who is responsible for supervising the shift millers, assistant

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<sup>5</sup> Section 2(11) defines the term supervisor as being “any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.”

millers, and sanitation employees, as well as determining their respective work schedules. See *Croft Metals, Inc.*, 348 NLRB at 718 (finding non-supervisor status, in part, because the putative supervisors did not prepare the work schedule, and relied on higher-level supervision for transfer and borrowing of employees). Moreover, the record indicates that the shift millers do not ask blenders, assistant millers, or sanitation workers to do anything other than routine tasks that are part of their existing job duties, for example by calling a sanitation worker to clean up a spill. In fact, that the shift millers, assistant millers, blenders, maintenance workers, and sanitation employees all appear to work together to ensure that the mill and production runs smoothly. Furthermore, shift millers are not held accountable for tasks performed by any other employees. *Alstyle Apparel*, 351 NLRB 1287, 1287, 1304 (2007) (finding employees were not supervisors, based upon lack of independent judgment in assignment of work, in part, because the resolution of assignment disputes did not rest on the putative supervisor, but resulted in direct management intervention).

When there is no evidence that an individual possesses any one of the several primary indicia for supervisory status, secondary indicia, by itself, is insufficient to establish that an employee is a statutory supervisory. *J.C. Brock Corp.*, 314 NLRB 157, 159 (1994). Because the shift millers do not possess any primary indicia of supervisory status, whether they possess any secondary indicia is immaterial. *Billows Elec. Supply of Northfield, Inc.*, 311 NLRB 878, 879 n. 2 (1993) (secondary indicia is not dispositive in the absence of any primary indicia of supervisory status). Moreover, the evidence fails to show that the shift millers possess significant secondary indicia of supervisory status. The shift millers do not attend supervisory meetings, their wage rate is only slightly higher than other employees, including the assistant millers, they wear the same uniforms as assistant millers, and if shift millers were found to be statutory supervisors, the supervisor to employee ratio would be 2 to 1. See *Adco Electric*, 307 NLRB 1113, 1125 (1992) (the Board adopts, without comment, the administrative law judge's finding that the fact putative supervisor wore no distinctive clothing, hats, or insignia, indicates a lack of secondary indicia); *A.J.R. Coating*, 292 NLRB 148 (1976) (evidence of high supervisor to employee ratio used in finding classification is not supervisory).

Finally, citing *River Brand Rice Mills, Inc.*, 112 NLRB 1349 (1955), and *Burrus Mills, Inc.*, 116 NLRB 384 (1956), the Employer claims that it has been long established that shift millers are statutory supervisors. However, in *River Brand Rice Mills*, the Board does not discuss the job duties of millers, let alone their supervisory status. Instead, the Board simply excludes them from a production and maintenance unit. 112 NLRB at 1351. While the Board found that the millers in *Burrus Mills* were statutory supervisors, their supervisory status was not contested by the parties. 116 NLRB at 386. Neither case supports the Employer's position. Based on the foregoing, and the record as a whole, I find that shift millers are not supervisors within the meaning of Section 2(11) of the Act, and I shall include them in the unit found appropriate herein.

2. Shift Millers and Assistant Millers Share a Community of Interest Separate and Apart from Other Employees

Having determined that the shift millers are not statutory supervisors, I now turn to the issue of whether the shift millers and assistant millers share a sufficient and distinct community of interest to constitute an appropriate unit.

Section 9(b) of the Act provides that “the Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by th[e] Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, or subdivision thereof.” In this regard, the cornerstone of the Board’s policies on appropriateness of bargaining units is the “community of interest” doctrine, which operates “to group together only employees who have substantial mutual interests in wages, hours, and other conditions of employment.” 15 NLRB Ann. Rep. 39 (1950). “Such a mutuality of interest serves to assure the coherence among employees necessary for efficient collective bargaining and at the same time to prevent a functionally distinct minority group from being submerged in an overly large unit.” *Allied Chemical & Alkali Workers v. Pittsburgh Plate Glass Co.*, 404 U.S. 157, 172-73 (1971).

The degree to which employees share a community of interest is measured by a number of factors, including the similarity in the method of payment of wages; hours of work; employment benefits; nature of supervision; difference in training and skills; interchange or contact with other employees; functional integration; and the extent to which they have historically been a part of a distinct bargaining unit. See *Kalamazoo Paper Box Corp.*, 136 NLRB 134 (1962). A union is not required to seek representation in the most comprehensive grouping of employees unless “an appropriate unit compatible with that requested does not exist.” *P. Ballantine & Sons*, 141 LRB 1103 (1962). Furthermore, it is well established that, in deciding the appropriate unit, the Board first considers the union’s petition and whether that unit is appropriate. *P.J. Dick Contracting*, 290 NLRB 150, 151 (1988).

The Board’s declared policy is to consider whether the unit requested is an appropriate one, even though it may not be the optimum or most appropriate unit for collective bargaining. *Overnite Transportation Co.*, 322 NLRB 723 (1996). The Board has historically found separate departmental units appropriate when there is no showing of a more comprehensive bargaining history, no other labor organization seeks to represent the same employees in a more comprehensive unit, and where it is established that the petitioned-for employees have a community of interest separate and apart from other employees. *Macy’s West, Inc.*, 327 NLRB 1222, 1228 (1999); *American Cyanamid Co.*, 131 NLRB 909 (1961). Moreover, the Board will find a limited group of employees to be an appropriate unit, despite some degree of functional integration with a broader group, where the employees are separately supervised, possess skills unique to their classification, receive the highest hourly wage, are assigned work in a different manner, and where transfers are infrequent. See *Ore-Ida Foods*, 313 NLRB 1016, 1019 n.3 (1994).

In this case, the evidence establishes that the shift millers and assistant millers share a common interest in wages, hours, and other working conditions. In fact, in some respects, they have almost identical job responsibilities and working conditions. The shift millers and assistant millers are the Employer’s only salaried employees who are also eligible for overtime, both have identical benefits, which are different from the benefits received by the

production and warehouse employees in the existing unit, and both receive more paid holidays than the employees in the existing unit. The shift millers are required to have a college degree or at least two years of work experience as an assistant miller. The shift millers and assistant millers are required to wear the same uniform, consisting of white shirts and pants, and report to the head miller, who supervises their work, and schedules their work hours. Evidence of functional integration is demonstrated by the fact that the shift millers and assistant millers are the only employees responsible for bringing wheat into the mill and communicate regularly to coordinate production.

There is no evidence that any other group of employees operates, maintains, or handles the equipment used and maintained by the shift millers and assistant millers. Further, there is no evidence that employees from other classifications transfer to either the shift miller or assistant miller positions, or vice versa. Also, unlike employees in the other classifications, the shift millers and assistant millers do not clock out during their breaks, as they can be interrupted at any time to return to work. Finally, the shift millers and assistant millers have frequent contact and interchange with each other, as evidenced by the fact they fill in for each other on their own initiative. In these circumstances, I find that the shift millers and assistant millers share a sufficient community of interest so as to constitute an appropriate unit for purposes of collective-bargaining.<sup>6</sup>

In addition, the record also supports a finding that the shift miller and assistant miller employees comprise a distinct craft unit separate from the existing unit. The Board has long held that a “craft unit” consists of a distinct and homogeneous group of skilled journeymen craftsmen who, together with helpers or apprentices, are primarily engaged in the performance of tasks which are not performed by other employees and which require the use of substantial craft skills and specialized tools and equipment. *Burns & Roe Services Corp.*, 313 NLRB 1307, 1308 (1994). The record shows that such is the case with respect to the shift millers and assistant millers in the instant case.

In determining whether a petitioned-for craft unit is appropriate, the Board examines (1) whether the employees take part in a formal training or apprenticeship program; (2) whether the work is functionally integrated with the work of the excluded employees; (3) whether their duties overlap with the duties of the excluded employees; (4) whether the employer assigns work according to need rather than on craft or jurisdictional lines; (5) and whether the petitioned-for employees share common interests with other employees. *Id.* However, in non-construction industry cases, the Board has not limited its inquiry solely to these factors. Instead, the Board will “determine the appropriateness of the craft unit sought in light of all factors present in the case.” *E.I. DuPont & Co.*, 162 NLRB 413, 417 (1966); *Mirage Hotel and Casino*, 338 NLRB 529 (2002).

The record, as detailed more fully above, establishes that the shift millers and assistant millers share skills not possessed by other employees, and that their duties have little if any overlap with other employees. Shift miller and assistant shift miller employees alone work on the Employer’s milling equipment, which requires significant and specialized skills to operate

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<sup>6</sup> As a result of this finding, it follows that there is no basis upon which to direct a self-determination, or *Armour-Globe*, election.

and maintain. Based on the foregoing and the facts presented in this case, it is appropriate to find that the shift millers and assistant shift millers not only share a community of interest separate and apart from other employees, but that they comprise an appropriate craft unit, as well.

Accordingly, based on the record evidence, I find that the following employees of the Employer constitute a unit appropriate for collective bargaining within the meaning of Section 9(b)(3) of the Act:

All full-time and regular part-time shift millers and assistant millers; excluding all other employees, office clericals employees, guards, and supervisors as defined in the Act.

There are approximately 8 employees in the unit found appropriate herein.

### **DIRECTION OF ELECTION**

I direct that an election by secret ballot be conducted in the above unit at a time and place that will be set forth in the notice of election that will issue soon, subject to the Board's Rules and Regulations.<sup>7</sup> The employees who are eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Also eligible are those in military services of the United States Government, but only if they appear in person at the polls. Employees in the unit are ineligible to vote if they have quit or been discharged for cause since the designated payroll period; if they engaged in a strike and have been discharged for cause since the strike began and have not been rehired or reinstated before the election date; and, if they have engaged in an economic strike which began more than 12 months before the election date and who have been permanently replaced. All eligible employees shall vote whether or not they desire to be represented for collective-bargaining purposes by:

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<sup>7</sup> Employers shall post copies of the Board's official Notice of Election in conspicuous places at least 3 full working days prior to 12:01 a.m. of the day of the election. The notices shall remain posted until the end of the election. The term "working day" shall mean an entire 24-hour period excluding Saturday, Sundays, and holidays. A party shall be estopped from objecting to non-posting of notices if it is responsible for the non-posting. An employer shall be conclusively deemed to have received copies of the election notice for posting unless it notifies the Regional Office at least 5 days prior to the commencement of the election that it has not received copies of the election notice. Section 103.20 (c) of the Board's Rules is interpreted as requiring an employer to notify the Regional Office at least 5 full working days prior to 12:01 a.m. of the day of the election that it has not received copies of the election notice. Failure to post the election notices as required herein shall be grounds for setting aside the election whenever proper and timely objections are filed under the provisions of Section 102.69(a).

**BAKERY, CONFECTIONARY, TOBACCO WORKERS AND GRAIN MILLERS  
INTERNATIONAL UNION, LOCAL 232, AFL-CIO, CLC**

**LIST OF VOTERS**

In order to ensure that all eligible voters have the opportunity to be informed of the issues before they vote, all parties in the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, I am directing that within **seven (7) days** of the date of this Decision, the Employer file with the undersigned, two (2) copies of election eligibility lists containing the full names and addresses of all eligible voters. The undersigned will make this list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, the undersigned must receive the list at the National Labor Relations Board Regional Office, 2600 North Central Avenue, Phoenix, Arizona 85004, on or before **March 20, 2012**. No extension of time to file this list shall be granted except in extraordinary circumstances. The filing of a request for review shall not excuse the requirements to furnish this list.

**RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by March 27, 2012. The request may be filed electronically through E-Gov on the Agency's website, [www.nlr.gov](http://www.nlr.gov)<sup>8</sup>, but may not be filed by facsimile.

Dated at Phoenix, Arizona, this 13<sup>th</sup> day of March 2012.

  
Cornele A. Overstreet, Regional Director

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<sup>8</sup> To file the request for review electronically, go to [www.nlr.gov](http://www.nlr.gov) and select the **File Case Documents** tab, and follow the detailed instructions. The responsibility for the receipt of the request for review rests exclusively with the sender. A failure to timely file the request for review will not be excused on the bases that the transmission could not be accomplished because the Agency's website was off line or unavailable for some other reason, absent a determination of technical failure of the site, with notice of such posted on the website..